

Exhibit 8

1 UNITED STATES DISTRICT COURT

2 FOR THE DISTRICT OF MARYLAND

3
4 JESSE HAMMONS,)

5 Plaintiff,)

6 -v-)

Case No.

7 UNIVERSITY OF MARYLAND MEDICAL) 1:20-cv-02088-DKC

8 SYSTEM CORPORATION, et al.)

9 Defendants.)

10
11
12 Videotaped Deposition of Gail P. Cunningham

13 Towson, MD

14 Thursday, April 14, 2022

15 9:00 a.m.

16
17
18 Job No: J8078725

19 Pages: 1-308

20 Reported by: Kenneth Norris

Deposition of Gail P. Cunningham

Taken at:

UNIVERSITY OF MARYLAND

ST. JOSEPH MEDICAL CENTER

7601 Osler Drive

Towson, MD 21204

Telephone: (410)328-8667

Pursuant to Notice, before Kenneth Norris, a
Professional Reporter and Notary Public in and for the
State of Maryland.

1 APPEARANCES:

2 ON BEHALF OF THE PLAINTIFF:

3 EDWARD J. DELMAN, ESQUIRE

4 Patterson, Belknap, Webb & Tyler LLP

5 1133 Avenue of the Americas

6 New York, NY 10036

7 Telephone(212)336-2000

8 E-mail: edelman@pbwt.com

9
10
11 ON BEHALF OF THE DEFENDANT, UNIVERSITY OF
12 MARYLAND MEDICAL SYSTEM CORPORATION:

13 PAUL A. WERNER, ESQUIRE

14 Sheppard, Mullin, Richter & Hampton LLP

15 2099 Pennsylvania Avenue, Suite 100

16 Washington, DC 20006

17 (Telephone)202-767-1900

18 E-mail: pwerner@sheppardmullin.com

19
20 VIDEOGRAPHER: KIM JOHNSON

1 CONTENTS

2 EXAMINATION OF Gail P. Cunningham Page

3 By Mr. Delman 8

10 Exhibits Page

11 Exhibit 1 Articles of organization of 37

12 Northeastern Maryland Regional

13 Health System

14 Exhibit 2 Articles of amendment from 37

15 Northeastern Maryland Regional

16 Health System

17 Exhibit 3 Form 990 for USMJ from 2017 39

18 Exhibit 4 Asset purchase agreement 41

19 Exhibit 5 Second amendment and restated 43

20 Offering agreement for

21 St. Joseph's Medical center

1	Exhibit	6	Catholic identity agreement	60
2	Exhibit	7	Minutes from Institutional	64
3			Ethics Committee dated 3/19/2019	
4	Exhibit	8	Hysterectomy spreadsheet	87
5	Exhibit	9	E-mail chain from November, 2019	105
6	Exhibit	10	Printout of Catholic identity and	120
7			Ethics review data analysis	
8			Spreadsheet	
9	Exhibit	11	E-mail between Keith Riddle and	126
10			Dr. Monica Buescher	
11	Exhibit	12	Document of Dr. Sewell's	128
12			Comments	
13	Exhibit	13	Document entitled Transgender	196
14			Issues in Catholic Health Care	
15	Exhibit	14	E-mail dated November, 2014	203
16	Exhibit	15	E-mail chain starting	216
17			October 2018	
18	Exhibit	16	E-mail chain starting	231
19			January 14, 2020	
20	Exhibit	17	Defendant's responses and	236
21			Objections to Plaintiff's	

First set of Interrogatories

Exhibit	18	Plaintiff's complaint	247
Exhibit	19	Audio recording	266
Exhibit	20	Audio recording	267
Exhibit	21	E-mail dated January 13, 2020	287

P R O C E E D I N G S

VIDEOGRAPHER: Here begins the video-recorded deposition of Dr. Gail Cunningham taken in the matter of Hammons versus University of Maryland Medical System Corporation in the U.S. District Court of Maryland, Case No. 1:20-cv-02088.

Today's date is April 14, 2022. The time is 9:00 a.m.

This deposition is being held at 7601 Osler Drive, Towson, Maryland.

The court reporter is Kenneth Norris. The video camera operator is Kim Johnson, both on behalf of Esquire.

Will counsel please introduce yourselves and state who you represent.

MR. DELMAN: This is Edward Delman from Patterson, Belknap, Webb & Tyler representing the Plaintiff Jesse R. Hammons.

MR. WERNER: Paul Werner of Sheppard Mullin for the Defendants.

1 VIDEOGRAPHER: Attorneys on Zoom?

2 No one? Okay.

3 Will the court reporter please swear the
4 witness?

5 Whereupon,

6 Gail P. Cunningham

7 A witness of lawful age, after being duly sworn to
8 tell the truth, the whole truth and nothing but the
9 truth, testified as follows:

10 EXAMINATION:

11 BY MR. DELMAN:

12 Q. Dr. Cunningham, can you please state your
13 name for the record?

14 A. Sure. Gale Patricia Cunningham.

15 Q. And, Dr. Cunningham, have you ever been
16 deposed before?

17 A. Yes.

18 Q. In what instances have you been deposed
19 before?

20 A. As a defendant witness in malpractice cases,
21 maybe three to five times.

1 the medical staff?

2 A. There I represented the entire medical
3 staff, so all physicians from all departments, ran the
4 medical executive committee, had oversight over
5 multiple medical staff committees, and had a seat on
6 the board. There is an -- it's not called an
7 ex officio, but I had a seat on the board as the
8 president.

9 Q. And that's the board of St. Joseph Medical
10 Center?

11 A. Yes.

12 Q. Was that also the board of USMJ?

13 A. I can't speak to how that was constructed at
14 that time.

15 Q. Okay.

16 And while you were president of the medical
17 staff, did you have any occasion or need to interpret
18 the ERDs?

19 A. Nothing that comes immediately to mind.

20 Q. So then in 2012 you became interim chief
21 medical officer?

1 A. Yes.

2 Q. And is there any significance between being
3 interim chief medical officer and non-interim chief
4 medical officer?

5 MR. WERNER: Object to the form.

6 THE WITNESS: Not really. It was just I
7 kind of volunteered and was accepted in the role while
8 we were going through a transition. And then, once we
9 were acquired it became a permanent position.

10 BY MR. DELMAN:

11 Q. And you remain chief medical officer today;
12 right?

13 A. Yes.

14 Q. Do you hold any other titles?

15 A. My titles are combined chief medical officer
16 and senior vice president of medical affairs, somewhat
17 used interchangeably.

18 Q. Is there any difference in responsibility
19 between those two roles?

20 A. No.

21 Q. And to whom do you report in those roles?

1 A. Chief executive officer.

2 Q. And that's Dr. Thomas Smyth?

3 A. Yes.

4 Q. And who, if anyone, reports directly to you?

5 A. I have 10 clinical chiefs representing 10
6 departments, the director of infection prevention, the
7 director of quality, the director of -- what is called
8 our Norton Transformation Office, which is a
9 performance improvement office.

10 I have my own strategic manager, and the
11 medical staff office, the director of the medical
12 staff office.

13 Q. And in general what are your
14 responsibilities as chief medical officer?

15 A. My principal responsibility is the oversight
16 of the quality of care that we deliver here at
17 St. Joe's, patient safety, credentialing and
18 privileging, infection prevention which is tied
19 directly to quality and safety.

20 I ensure that our policies and procedures
21 are followed, particularly on the clinical side of

1 things.

2 I partner with the chief nursing officer in
3 strategic initiatives to improve health care here at
4 St. Joe's.

5 I am a resource for any member of the
6 medical staff who has concerns or issues, who maybe
7 don't choose to go talk to their own clinical chief.

8 I assure that there is good interdepartment
9 collaboration on complex issues.

10 Oversee the joint commission survey of all
11 of our accreditation.

12 And all other duties as assigned, incident
13 commander for COVID-19.

14 Q. That sounds pretty exhaustive, but anything
15 else?

16 A. I think that probably covers most of it.

17 Q. So do you remember approximately when in
18 2012 you became interim chief medical officer?

19 A. I believe it was March.

20 Q. So was that prior to the acquisition?

21 A. Yes. The acquisition was -- I don't know

1 that it -- I know it was announced in December. I
2 don't know the actual signature date.

3 Q. So from 1996 to 2012, St. Joseph was owned
4 and operated by Catholic Health Initiatives; right?

5 A. Yes.

6 Q. And what is Catholic Health Initiatives?

7 MR. WERNER: Object to the form.

8 THE WITNESS: It's another Catholic
9 corporation that owns and operates multiple hospitals
10 across the United States. I don't know elsewhere.

11 BY MR. DELMAN:

12 Q. And then in 2012 St. Joseph was purchased by
13 the University of Maryland Medical System; right?

14 A. Yes.

15 Q. Now, were you involved in any way with the
16 negotiations concerning the purchase of St. Joseph?

17 A. Only being at some -- actually at this table
18 sometimes when there would be discussions back and
19 forth about timing, but not in -- nothing monetary or
20 in any -- no part of the actual negotiations.

21 Q. You didn't have any role in the negotiation

1 of the terms of the asset purchase agreement?

2 A. No.

3 Q. And did you have any role in the negotiation
4 of the Catholic identity agreements?

5 A. No.

6 Q. So St. Joseph is currently an LLC with the
7 name University of Maryland St. Joseph's Medical
8 Center, LLC; right?

9 A. Right.

10 Q. And that LLC has one member; right?

11 A. Yes.

12 Q. And that member is UMSJ Health System, LLC?

13 A. I believe so.

14 Q. And UMSJ Health System in turn also has only
15 one member; right?

16 A. I believe so.

17 Q. And that member is the University of
18 Maryland Medical System Corporation?

19 A. I believe so.

20 Q. And so, UMSJ Health System is a wholly owned
21 subsidiary of University of Maryland Medical System?

1 MR. WERNER: Object to the form.

2 THE WITNESS: I don't know what that term
3 means, wholly owned subsidiary.

4 BY MR. DELMAN:

5 Q. The University of Maryland Medical System is
6 the only owner of UMSJ Health System?

7 A. Yes.

8 Q. And similarly, UMSJ Health System is the
9 only owner of St. Joseph's Medical Center?

10 A. Yes.

11 Q. So University of Maryland through UMSJ is
12 the sole owner of St. Joseph; right?

13 MR. WERNER: Object to the form.

14 THE WITNESS: Yes.

15 BY MR. DELMAN:

16 Q. And no other entity has any ownership stake
17 in St. Joseph?

18 A. No.

19 Q. Now, the University of Maryland St. Joseph
20 Medical Center was previously known as Northeastern
21 Maryland Regional Health System, LLC; right?

1 Q. And UMMS has also reserved the power to make
2 UMSJ Health System take certain actions without prior
3 approval of the board; right?

4 MR. WERNER: Object to the form.

5 THE WITNESS: Yes.

6 BY MR. DELMAN:

7 Q. For example, UMMS can appoint and remove
8 UMSJ Health System's CEO; right?

9 MR. WERNER: Object to the form.

10 THE WITNESS: Yes.

11 BY MR. DELMAN:

12 Q. And UMMS can add, expand, revise, or delete
13 certain health care services provided by UMSJ Health
14 System?

15 MR. WERNER: Object to the form.

16 THE WITNESS: Yes.

17 BY MR. DELMAN:

18 Q. UMMS can make UMSJ Health Systems submit
19 corrective action plans if performance and financial
20 targets aren't met?

21 MR. WERNER: Object to the form.

1 THE WITNESS: Yes.

2 BY MR. DELMAN:

3 Q. And it can enforce those corrective action
4 plans?

5 MR. WERNER: Object to the form.

6 THE WITNESS: Yes.

7 BY MR. DELMAN:

8 Q. Do you have any reason to believe that UMMS
9 no longer holds any of those reserved powers?

10 A. No.

11 Q. Are you aware of any other powers that UMMS
12 exercises over the UMSJ Health System or SJMC?

13 MR. WERNER: Object to the form.

14 THE WITNESS: No.

15 BY MR. DELMAN:

16 Q. Now, UMMS' 2012 acquisition of St. Joseph
17 was contingent on the approval from the Roman Catholic
18 Church; right?

19 A. Yes.

20 Q. And as part of the acquisition, UMMS
21 committed to continuing to operate SJMC in a manner

1 consistent with Catholic values and principles?

2 MR. WERNER: Object to the form.

3 BY MR. DELMAN:

4 Q. Now, are you aware that UMMS contractually
5 promised to ensure that St. Joseph establish and
6 maintain certain fundamentals in order to hold SJMC
7 accountable for its Catholic identity?

8 MR. WERNER: Object to the form.

9 THE WITNESS: No.

10 BY MR. DELMAN:

11 Q. Are you aware that one of those fundamentals
12 is that the ERDs is the operations lines of
13 St. Joseph?

14 A. Yes.

15 MR. WERNER: Object to the form.

16 BY MR. DELMAN:

17 Q. And that one of those fundamentals is that
18 UMSJ Health Systems' Board establishes a committee
19 charged with overseeing the integration of the
20 Catholic mission into St. Joseph's structures,
21 policies, programs and practices?

1 Q. You have no knowledge in your personal
2 capacity?

3 A. Right.

4 Q. And do you have any knowledge in your
5 capacity as corporate representative?

6 A. No.

7 Q. And, again, putting aside procedures
8 involving transgender patients, isn't it true that
9 there is no particular procedure in place at St. Joe's
10 for reviewing whether a hysterectomy is complying with
11 the ERDs?

12 MR. WERNER: Object to the form.

13 THE WITNESS: There's not a procedure in
14 place, but there is implicit, I think -- I mean, there
15 is knowledge that's conveyed to the people who would
16 be doing those procedures of what's acceptable and
17 what's not acceptable. And very clearly stated that
18 we do not do sterilization -- man, woman, whomever --
19 here at St. Joe's.

20 BY MR. DELMAN:

21 Q. And so physicians at St. Joe's -- and

1 specifically OBs -- are expected to have a general
2 understanding of what categories of procedures are not
3 allowed here?

4 A. Absolutely.

5 Q. And those categories include sterilizations?

6 A. Yes. Abortion, yes.

7 So hysterectomies for women, vasectomies for
8 men, and I don't even think there is a privilege to
9 the physicians are allowed to apply for in that
10 regard.

11 Prescription of contraception unless there
12 is a medical indication for it.

13 Those would probably be the major
14 procedures.

15 Q. Just to be clear, I think you said
16 hysterectomies. Hysterectomies are only prohibited
17 insofar as they are being done expressly for the
18 purpose of sterilization?

19 A. Correct. We can't do tubal ligations. We
20 can remove ovaries for the purpose of sterilization.

21 Q. You can perform oophorectomies, but only for

1 a medical indication?

2 A. Correct.

3 Q. And so it's the same process as for
4 hysterectomies?

5 MR. WERNER: Object to the form.

6 THE WITNESS: What do you mean by process?

7 BY MR. DELMAN:

8 Q. The same considerations are in play with
9 oophorectomies as to hysterectomies?

10 A. Yes.

11 Q. Dr. Cunningham, are you familiar with the
12 medical condition gender dysphoria?

13 MR. WERNER: Object to the form.

14 THE WITNESS: Yes. I've not studied it in
15 depth.

16 BY MR. DELMAN:

17 Q. What's your understanding of it?

18 A. That it is -- what is the situation? It is
19 a condition in which a person's DNA makeup is
20 incongruent with how they perceive themselves, from a
21 sexual -- as a sexual being. Not a sexual being. As

1 (Plaintiff's Exhibit No. 17 was thereupon
2 marked for identification.)

3 BY MR. DELMAN:

4 Q. These are Defendant's Responses and
5 Objections to Plaintiff's First Set of
6 Interrogatories.

7 So obviously feel free to read through the
8 whole thing, but we're specifically going to discuss
9 the response to Interrogatory No. 10, which starts at
10 page 17.

11 MR. WERNER: I assume you really want to
12 direct her attention to the information on page 18, so
13 she has full context?

14 MR. DELMAN: Yes.

15 THE WITNESS: Okay.

16 BY MR. DELMAN:

17 Q. So, Dr. Cunningham, this paragraph at the
18 top of page 18 here, do you recall ever reviewing this
19 statement before?

20 A. Yes.

21 Q. And do you recall signing a document

1 swearing under penalty of perjury that the statement
2 was true and correct to the best of your knowledge?

3 A. Yes.

4 Q. So can you tell me generally what happened
5 on December -- on Christmas Eve 2019 regarding
6 plaintiff's hysterectomy.

7 A. I received a phone call from Dr. Adashek,
8 who wanted to know if it was okay if he performed a
9 hysterectomy on a patient of his for the purpose of
10 transgender -- transgender surgery. And I said no, we
11 cannot do transgender surgery at St. Joe's.

12 And that was the extent of the conversation.

13 Q. And so, Dr. Adashek just sort of like called
14 you out of the blue on Christmas Eve?

15 A. Yes. It was very unusual.

16 Q. And by the time this phone call had
17 happened, had the procedure already been scheduled;
18 right?

19 A. Yes.

20 Q. And no one in scheduling had sort of alerted
21 you that this procedure had been scheduled?

1 A. No.

2 Q. And generally no one in the hospital had
3 told you that this procedure had been scheduled?

4 A. No.

5 Q. And he hadn't asked you about -- he being
6 Dr. Adashek -- had not asked you about it before
7 scheduling it?

8 A. No.

9 Q. Do you remember approximately how long the
10 phone call was?

11 A. It was brief. A minute.

12 Q. A minute?

13 A. Maybe.

14 Q. That short?

15 A. It was pretty quick, yes.

16 Q. And just again, you two had no prior
17 conversations about this procedure before that date?

18 A. No. No. Not that I can recall.

19 Q. And before this occasion, when was the last
20 time Dr. Adashek had called you directly to request
21 permission to perform any procedure at St. Joe's?

1 A. I don't believe he ever had.

2 Q. Like, for example, he didn't call you to
3 request permission about the transhysterectomy in 2018
4 that we had discussed?

5 A. Not that I recall.

6 Q. And he obviously generally did not call you
7 to request permission for every hysterectomy he
8 performed at St. Joe's?

9 A. No.

10 Q. So do you recall exactly what Dr. Adashek
11 told you when he called on Christmas Eve 2019?

12 MR. WERNER: Object to the form.

13 THE WITNESS: No, I don't recall the exact
14 details. I know it was a brief conversation. That I
15 was surprised that he was even asking if he could do
16 this because it was well known that we couldn't do
17 those procedures here at St. Joe's. Or I thought
18 everybody knew it well.

19 And we didn't get into any discussion about
20 the specifics of the patient. I accepted that the
21 purpose of the surgery was for transgender purposes.

1 BY MR. DELMAN:

2 Q. So what did he tell you about the patient's
3 condition on the phone call?

4 A. He didn't tell me about the patient's
5 condition. Just that the patient was seeking
6 transgender surgery and the hysterectomy was part of
7 that. But that was it.

8 There was no degree of illness discussed or
9 degree of anything discussed. It was just about could
10 he do this procedure.

11 Q. Okay. And did he tell you anything about
12 the proposed treatment beyond it being a hysterectomy?

13 A. No.

14 Q. And beyond the fact that the patient was
15 transgender, it was a hysterectomy and it was being
16 done for the purpose of gender transition. Did he
17 tell you anything else about it?

18 MR. WERNER: Object to the form.

19 THE WITNESS: No.

20 MR. WERNER: Asked and answered.

21 THE WITNESS: No.

1 BY MR. DELMAN:

2 Q. And you told Dr. Adashek that -- on that
3 call that the surgery could not take place at
4 St. Joe's; correct?

5 A. Correct.

6 MR. WERNER: Object to the form.

7 BY MR. DELMAN:

8 Q. And so within the span of that one phone
9 call, you made the choice that -- you made the
10 decision that the hysterectomy could not take place at
11 St. Joe's; right?

12 MR. WERNER: Object to the form.

13 THE WITNESS: Correct.

14 BY MR. DELMAN:

15 Q. And in the span of that one phone call you
16 fully considered the nature of the plaintiff's
17 condition?

18 MR. WERNER: Object to the form.

19 THE WITNESS: I considered the reason that
20 the surgeon wanted to do the surgery and that -- and
21 it was black and white to me, and I said no.

1 BY MR. DELMAN:

2 Q. Did you do any research into gender
3 dysphoria during that phone call?

4 MR. WERNER: Object to the form.

5 THE WITNESS: No.

6 MR. WERNER: She didn't even testify that
7 gender dysphoria was mentioned. You are just
8 misstating her testimony.

9 If you want to ask a question, ask a
10 question. But don't presuppose facts that aren't
11 actually in the record.

12 MR. DELMAN: Okay. Thank you again for the
13 tips, Paul.

14 MR. WERNER: Yeah, you need them.

15 MR. DELMAN: Okay. Thank you. Appreciate
16 it.

17 BY MR. DELMAN:

18 Q. Dr. Cunningham, did Dr. Adashek use the term
19 gender dysphoria at any point during that phone call?

20 A. I don't recall.

21 Q. Use the term gender transition during that

1 phone call?

2 A. I don't recall the exact terms he used, but
3 all I know is that it was for the purpose of gender
4 reassignment.

5 Q. During the phone call did you look into the
6 potential consequences of not allowing a gender
7 reassignment surgery?

8 MR. WERNER: Object to the form.

9 THE WITNESS: No.

10 BY MR. DELMAN:

11 Q. And did you review the plaintiff's chart at
12 all during that phone call?

13 A. No.

14 Q. So --

15 A. I may have told Dr. Adashek that I knew that
16 he had privileges at GBMC, which is a mile away, and
17 that he could proceed with the procedure there.

18 Q. And so, generally, in what way did you
19 consider the plaintiff's condition during that phone
20 call?

21 MR. WERNER: Object to the form. Asked and

1 answered.

2 THE WITNESS: I did not do an assessment of
3 the patient's condition. I only did an assessment of
4 the request for a surgery that I knew could not happen
5 here.

6 BY MR. DELMAN:

7 Q. And so also in what way did you consider the
8 proposed treatment during the phone call?

9 MR. WERNER: Object to the form.

10 Asked and answered.

11 THE WITNESS: I only -- I objected like I
12 would to somebody that calls and says, hey, I want to
13 remove a left eyeball. We don't remove eyeballs at
14 St. Joseph, so it wasn't the condition of the patient,
15 it is what is allowed here.

16 BY MR. DELMAN:

17 Q. And in the span of that phone call you fully
18 considered the ERDs and what they allowed?

19 MR. WERNER: Object to the form.

20 THE WITNESS: I knew that transgender
21 surgery was not allowed by the ERDs.

1 BY MR. DELMAN:

2 Q. Did you review a copy of the ERDs while you
3 were on the phone?

4 MR. WERNER: Object to the form.

5 THE WITNESS: No. No.

6 BY MR. DELMAN:

7 Q. And did you consult with anyone about the
8 ERDs while you were on the phone?

9 MR. WERNER: Object to the form.

10 THE WITNESS: No.

11 BY MR. DELMAN:

12 Q. Generally you just relied on your personal
13 understanding of what the ERDs allowed?

14 MR. WERNER: Object to the form.

15 THE WITNESS: My knowledge of what they
16 allowed.

17 BY MR. DELMAN:

18 Q. And just generally in terms of deciding that
19 the procedure could not take place at St. Joe's, did
20 you consult with anyone else in making that decision?

21 A. No.

1 A. In terms of I would have said violate the
2 Catholic directives command to preserve the functional
3 integrity of the human body.

4 Q. You don't believe that you used the term
5 functional integrity during the call?

6 MR. WERNER: Object to the form. Asked and
7 answered.

8 THE WITNESS: No, I do not.

9 BY MR. DELMAN:

10 Q. And you don't believe you referenced any
11 rule regarding removal of healthy organs during that
12 call?

13 MR. WERNER: Object to the form. Asked and
14 answered.

15 THE WITNESS: I would doubt it.

16 BY MR. DELMAN:

17 Q. So how did Dr. Adashek respond to you on
18 that call?

19 A. I think he might have been a little
20 frustrated. But, you know, not -- I don't think he
21 was particularly angry. I think he remained calm and

1 cool, and I said -- I told him that he would need to
2 cancel and relocate the surgery and -- but from what I
3 can remember, he said okay and that was sort of the
4 end of it.

5 Q. Do you recall if he tried to convince you to
6 allow the procedure to take place?

7 MR. WERNER: Object to the form.

8 THE WITNESS: He referenced the 2018 case,
9 very briefly. Because I think I said to him I'm
10 really surprised you're even asking about this, and he
11 said, well, this came up in 2018 and I was wondering
12 if the rules had changed, or something along those
13 lines. And I said no.

14 Nothing's changed. You can't do the surgery
15 here. You can -- you could do it at GBMC or
16 elsewhere, and that was it.

17 Q. Is there any chance you recall what his
18 exact words were to you?

19 A. No.

20 Q. And did you and Dr. Adashek agree at all to
21 speak again about the matter at a later date?

1 A. I don't recall that.

2 Q. And did you at any point discuss with
3 Dr. Adashek whether the patient's gender dysphoria was
4 severe enough to be life-threatening?

5 THE WITNESS: No.

6 MR. WERNER: Object to the form. Asked and
7 answered.

8 BY MR. DELMAN:

9 Q. It was just the fact that it was a gender
10 transition treatment that was enough to deny it;
11 right?

12 MR. WERNER: Object to the form. Asked and
13 answered.

14 THE WITNESS: Yes.

15 BY MR. DELMAN:

16 Q. And so prior to January 6, 2020, how many
17 other times did you speak with Dr. Adashek about
18 plaintiff's procedure?

19 A. Prior to January the 6th?

20 Q. Um-um.

21 A. Which is when the procedure was scheduled?

1 Q. Correct.

2 A. I don't believe I did. I know we had
3 subsequent conversations, but I don't think it was
4 before January 6th.

5 Q. It's your recollection that the Christmas
6 Eve call was the only call you two had?

7 A. That's my recollection, yes.

8 Q. And you two didn't e-mail about it at all?

9 A. No, not that I know of.

10 Q. To the best of your knowledge, did
11 Dr. Adashek speak with anyone else at UMSJ or at SJMC
12 after speaking with you?

13 MR. WERNER: Object to the form.

14 THE WITNESS: No. And he forgot to cancel
15 the case, so I don't think that he did speak to
16 anybody else.

17 BY MR. DELMAN:

18 Q. Did you inform the scheduling department
19 that the procedure had been cancelled?

20 MR. WERNER: Object to the form.

21 THE WITNESS: No. That would be up to the

1 surgeon.

2 BY MR. DELMAN:

3 Q. That's the surgeon's responsibility?

4 A. Yes.

5 Q. Did you -- following that Christmas Eve call
6 and prior to the scheduled date of the surgery, did
7 you speak to anyone at St. Joe's about the procedure?

8 A. I would suspect that I probably would have
9 talked to Dr. Marion, the chief of surgery. I don't
10 know that I -- at some point I talked to Dr. Smyth,
11 but I don't know that it was in that time interval. I
12 can't recall.

13 Q. Why do you presume that you would have
14 talked to Dr. Marion?

15 A. Just to let him know, to put this on the
16 radar that Dr. Adashek was trying to post a case that
17 he should have known that we couldn't do here.

18 And whether I would have -- I'm trying to
19 think if Dr. Buescher was in her role at that point.
20 Maybe Dr. Buescher as well. In fact, she was in her
21 role there. So those two I may have talked to about

1 Q. And you were trying to reach out to him
2 because of -- you wanted to discuss why the procedure
3 had not been cancelled?

4 A. Yes.

5 Q. Between the Christmas Eve phone call and
6 January 6th, did you take any actions regarding
7 plaintiff's procedure?

8 MR. WERNER: Object to the form.

9 THE WITNESS: Not that I recall.

10 BY MR. DELMAN:

11 Q. Did you at any point consult with the ethics
12 committee about plaintiff's procedure?

13 MR. WERNER: Object to the form. Asked and
14 answered.

15 THE WITNESS: No.

16 BY MR. DELMAN:

17 Q. Even after the surgery was cancelled, was
18 the procedure ever discussed before the ethics
19 committee?

20 MR. WERNER: Object to the form.

21 THE WITNESS: I don't know. I can't

1 remember.

2 BY MR. DELMAN:

3 Q. If it had been discussed, there would be
4 minutes reflecting that?

5 A. Yes.

6 Q. Likewise, any point before or after the
7 surgery was cancelled, was this matter brought before
8 the Catholic Identity Committee?

9 MR. WERNER: Object to the form.

10 THE WITNESS: I don't know.

11 BY MR. DELMAN:

12 Q. If it had been, would minutes have been
13 taken of that meeting?

14 A. I believe so.

15 Q. And you just testified that during the call
16 you suggested to Dr. Adashek that he could do the
17 procedure at GBMC; right?

18 A. Correct.

19 Q. Did you believe that a non-Catholic hospital
20 would view gender dysphoria as a sufficient medical
21 reason to perform a hysterectomy?

1 MR. WERNER: Object to the form.

2 THE WITNESS: I know that GBMC is not a
3 Catholic hospital and does not have to abide by ERDs.

4 BY MR. DELMAN:

5 Q. So because they don't have to abide by the
6 ERDs, they would likely view gender transition as a
7 sufficient medical reason for a procedure?

8 MR. WERNER: Object to the form. You
9 understand she is not here testifying for GBMC.

10 MR. DELMAN: I'm asking her based on her
11 personal knowledge.

12 MR. WERNER: You're asking what they think.

13 MR. DELMAN: I'm asking based off her
14 knowledge what she believes.

15 MR. WERNER: You're asking her personal
16 belief on what they think. Okay. That's not a proper
17 question.

18 MR. DELMAN: Okay. Again, she answered the
19 question based on her personal knowledge.

20 THE WITNESS: I don't know how GBMC makes
21 decisions about what's allowed, what's sufficient,

1 procedure to take place here; right?

2 MR. WERNER: Object to the form.

3 THE WITNESS: He should have known and not
4 posted the case here.

5 BY MR. DELMAN:

6 Q. And --

7 A. And he should have cancelled the case when
8 he was told that it needed to be cancelled.

9 Q. Do you know if anyone at St. Joe's followed
10 up with Dr. Adashek at any point between that
11 Christmas Eve call and January 6th to ask why the
12 surgery was still on the calendar?

13 A. I don't know.

14 Q. And, again, you don't recall communicating
15 to anyone the substance of your conversation with
16 Dr. Adashek?

17 A. No.

18 Q. Now, Dr. Adashek has performed, say, dozens
19 of hysterectomies at St. Joe's; right?

20 A. Presumably, yes.

21 Q. And as we've thoroughly discussed here,

1 St. Joe's has as far as you know never disallowed a
2 hysterectomy for any medical condition other than
3 gender dysphoria; correct?

4 MR. WERNER: Object to the form.

5 THE WITNESS: I don't know. Again, because
6 that might happen at the chief level and not at my
7 level.

8 BY MR. DELMAN:

9 Q. Is it fair to say -- again assuming it was a
10 mistake and not on purpose -- that Dr. Adashek's
11 mistake was not recognizing that St. Joe's has a
12 policy of not allowing hysterectomies to treat gender
13 dysphoria --

14 MR. WERNER: Object to the form. Asked and
15 answered.

16 THE WITNESS: He knows that we operate under
17 the ERDs. He has been here since 19-whatever --
18 80-something or whatever. He knows we don't do
19 abortions here. He knows we don't do tubal ligations
20 here. He knows there are a whole host of things that
21 we don't do here, so I don't think this was a lack of

1 knowledge.

2 BY MR. DELMAN:

3 Q. Again, one of those things that we don't do
4 here is gender transition as well?

5 A. Correct.

6 Q. So, pursuant to that policy of not allowing
7 gender transitions, Dr. Adashek's scheduled procedure
8 was cancelled?

9 MR. WERNER: Object to the form.

10 THE WITNESS: He didn't cancel it.

11 BY MR. DELMAN:

12 Q. It was ordered to be cancelled?

13 A. Right. Right.

14 Q. Apart from that January 30th, 2020, meeting
15 that we've just discussed, what other meetings have
16 you had about treating transgender patients at
17 St. Joe's since January 2020?

18 MR. WERNER: Object to the form.

19 THE WITNESS: I don't know that there have
20 been any specific meetings. You know, that was --
21 about three weeks later COVID hit and anything we may

1 or false question that is not actually susceptible to
2 a true or false answer? Don't you think that's a
3 misleading question?

4 Maybe you should try harder to ask a
5 question that's intelligible.

6 BY MR. DELMAN:

7 Q. Again, without that interruption --

8 MR. WERNER: Objection.

9 BY MR. DELMAN:

10 Q. -- I'm going to read you a statement and I'm
11 telling you it's not -- I'm not asking you for your
12 answer whether it's true or false. I'm asking whether
13 it is consistent with your understanding.

14 "For purposes of applying the ERDs, the
15 terms life-threatening and life-altering, do not
16 reflect a medical diagnosis. Instead, these terms are
17 used as a means to understand the implications of the
18 ERDs on a particular procedure and/or a
19 patient-desired procedure."

20 MR. WERNER: Object to the form.

21 THE WITNESS: That's true.

1 BY MR. DELMAN:

2 Q. Is that statement consistent with your
3 understanding?

4 A. Can you read the last part of it, again?

5 Q. Sure. Of course.

6 A. Go ahead and read the whole thing.

7 Q. Okay.

8 "For purposes of applying the ERDs the terms
9 life-threatening and life-altering do not reflect a
10 medical diagnosis. Instead, these terms are used as a
11 means to understand the implications of the ERDs on a
12 particular procedure and/or a patient's desired
13 procedure."

14 MR. WERNER: Object to the form. If you're
15 reading from a document, you should give her the
16 document.

17 THE WITNESS: True.

18 BY MR. DELMAN:

19 Q. Again, that statement's consistent with your
20 understanding?

21 A. Yes.

REPORTER'S CERTIFICATE

State of Maryland

County of Baltimore, to wit:

I, KENNETH NORRIS, a Notary Public of the State of Maryland, County of Baltimore, do hereby certify that the within named witness personally appeared before me at the time and place herein set out, and after having been duly sworn by me, according to law, was examined.

I further certify the examination was recorded stenographically by me and this transcript is a true record of the proceedings.

I further certify that I am not of counsel to any of the parties, nor in any way interested in the outcome of this action.

As witness my hand and notarial seal this 14th day of April, 2022.



KENNETH NORRIS

Notary Public

My Commission Expires: 7-22-22

DR. GAIL P. CUNNINGHAM
Hammons vs University of Maryland Medical System

April 14, 2022
309

Reference No.: 8078725

Case: Hammons vs University of Maryland Medical System

DECLARATION UNDER PENALTY OF PERJURY

I declare under penalty of perjury that I have read the entire transcript of my Deposition taken in the captioned matter or the same has been read to me, and the same is true and accurate, save and except for changes and/or corrections, if any, as indicated by me on the DEPOSITION ERRATA SHEET hereof, with the understanding that I offer these changes as if still under oath.



Dr. Gail P. Cunningham

NOTARIZATION OF CHANGES

(If Required)

Subscribed and sworn to on the _____ day of

_____, 20____ before me,

(Notary Sign)_____

(Print Name) _____ Notary Public,

in and for the State of _____

Reference No.: 8078725

Case:- Hammons vs University of Maryland Medical System

Page No. 1 Line No. 14 Change to: From Gale to Gail

Reason for change: Incorrect spelling

Page No. 30 Line No. 12 Change to: Not sure if that is USMJ
or meant to be UMMS?

Reason for change: _____

Page No. 40 Line No. 21 Change to: UMS to UMMS

Reason for change: Incorrect Spelling

Page No. 41 Line No. 9 Change to: Ums to Umms

Reason for change: Incorrect Spelling

Page No. 57 Line No. 16 Change to: Father Sobey to Father
Asobi

Reason for change: Incorrect Spelling

Page No. 68 Line No. 15 Change to: Mission to Admission

Reason for change: Incorrect Spelling

*Page No. 71 Line No. _____ Change to: Management to Anesthesia

Reason for change: Wrong Wording

SIGNATURE:  DATE: 5/25/2022

Dr. Gail P. Cunningham

Reference No.: 8078725

Case: Hammons vs University of Maryland Medical System

Page No. 73 Line No. 19 Change to: DPA to BPA

Reason for change: Incorrect Spelling

Page No. 74 Line No. 6 Change to: DPA to BPA

Reason for change: Incorrect Spelling

Page No. 74 Line No. 10 Change to: Repair to Rare

Reason for change: Incorrect wording

*Page No. 101 Line No. 16 Change to: Sobey to Asobi

Reason for change: Incorrect Spelling

Page No. 118 Line No. 18 Change to: Sobey to Asobi

Reason for change: Incorrect Spelling

Page No. 119 Line No. 6 Change to: Sobey to Asobi

Reason for change: Incorrect Spelling

Page No. 119 Line No. 15 Change to: Employee to Employed

Reason for change: Incorrect Wording

SIGNATURE:  DATE: 5/25/2022

Dr. Gail P. Cunningham

Page No. 120 Line No. 1 Change to: Touhey to Tewey

Reason for change: Incorrect Spelling

Page No. 148 Line No. 12 Change to: Fetal to Futile

Reason for change: _____

*Page No. 148 Line No. 13 Change to: phone

Reason for change: _____

Page No. 149 Line No. 16 Change to: Nelapas to Manlapaz

Reason for change: Incorrect Spelling

Page No. 160 Line No. 9 Change to: Eminence to Imminence

Reason for change: Incorrect Spelling

Page No. 161 Line No. 18 Change to: Sobey to Asobi

Reason for change: Incorrect Spelling

Page No. 172 Line No. 14 Change to: OBNR to OBGYN's

Reason for change: Incorrect Spelling

Page No. 173 Line No. 19 Change to: Feel to be

Reason for change: Incorrect wording

SIGNATURE: Gail P. Cunningham DATE: 5/25/2022

Dr. Gail P. Cunningham

Page No. 186 Line No. 20 Change to: Can to Can't

Reason for change: Incorrect Wording

*Page No. 188 Line No. 4 Change to: It comes from

Reason for change: Incorrect Wording

*Page No. 188 Line No. 21 Change to: Order to Corner

Reason for change: Incorrect Wording

*Page No. 189 Line No. Change to:

Reason for change:

Page No. 202 Line No. 2 Change to: I to In

Reason for change: Incorrect Wording

Page No. 211 Line No. 21 Change to: Sobey to Asobi

Reason for change: Incorrect Spelling

Page No. 220 Line No. 4 Change to: Normal to Abnormal

Reason for change: Incorrect Wording

Page No. 225 Line No. 2 Change to: Remove F

Reason for change: Incorrect Spelling

Page No. 226 Line No. 2 Change to: Marks to Marx

Reason for change: Incorrect Spelling

Page No. 232 Line No. 21 Change to: BPH to BPA

Reason for change: Incorrect Spelling

Page No. 233 Line No. 10 Change to: EPIQ to EPIC

Reason for change: Incorrect Spelling

Page No. 246 Line No. 7 Change to: Incorrect Spelling

Reason for change: Incorrect Spelling

*Page No. 268 Line No. 21 Change to: and he

Reason for change:

Page No. 274 Line No. 4 Change to: Kuhn to Kunz

Reason for change: Incorrect Spelling

Page No. 282 Line No. 10 Change to: Hough to Hodes

Reason for change: Incorrect Spelling

Page No. 282 Line No. 12 Change to: Hough to Hodes

Reason for change: Incorrect Spelling

Page No. 298 Line No. 8 Change to: Sobey to Asobi

Reason for change: Incorrect Spelling

Page No. 298 Line No. 14 Change to: Sobey to Asobi

Reason for change: Incorrect Spelling

SIGNATURE:  DATE: 5/25/2022

Dr. Gail P. Cunningham

Page No. 298 Line No. 21 Change to: Sobey to Asobi

Reason for change: Incorrect Spelling

Page No. 299 Line No. 15 Change to: Sobey to Asobi

Reason for change: _____

Page No. _____ Line No. _____ Change to: _____

Reason for change: _____

Page No. _____ Line No. _____ Change to: _____

SIGNATURE:  DATE: 5/25/2022

Dr. Gail P. Cunningham